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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,335	11/06/2000	Mark Ryan	W2100/197718	9472

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EXAMINER

LE, KHANH H

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/707,335

Applicant(s)

RYAN ET AL.

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-24 and 38-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24, 38-64 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 10
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **Non-Final Action/ Restriction**

1. This Office Action is in response to the Response, dated September 9, 2003. Claims 1-4, 11, 14, 38-40, 44-47, 62 have been amended. Claims 25-37 are cancelled. Thus claims 1-24, 38-64 are pending. Claims 1, 11, 16, 38, 44, 48, 62 are independent.

### **REQUIREMENT FOR ELECTION/RESTRICTION**

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). **Applicant has one month to respond (See MPEP 809.02).**

### **MPEP 803: RESTRICTION — When Proper**

3. The following is a quotation of an informational statement about restriction requirements:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(I)) or distinct (MPEP § 806.05 - § 806.05(I)). If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

### **37 CFR 1.142 Requirement for restriction:**

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4. If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division). **Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action.**

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

**Group I. Claims 16-24** drawn to delivering weather information based on a request and delivering of other content by a first entity at a first Internet site in partner relationships with a plurality of other entities, classified at least in class 705, subclass 26.

**Group II. Claims 1-10, 11-15, 38-43, and 44-47.**

**Group II a ). Claims 1-10, 11-15, 38-43,** drawn to delivering of **other content** over the network based on local weather conditions, classified in class 705, subclass 14.

**Group II b). Claims 44-47** drawn to delivering of **other content** i.e. issuing commands to consumer devices, classified at least in class 340 subclass 3.1.

**Group III. Claims 62-68, 48-61** drawn to delivery of **weather information** over the network.

**Group III a). Claims 62-68** drawn to customized delivery of weather information based on a user request and indicated preferences classified at least in class 705 subclass 27.

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**Group III b). Claims 48-61** drawn to delivering weather information

...comprising:...parsing the weather data from the weather data feed and tagging the parsed weather data with a plurality of tags according to a set of defined parsing rules ; storing the tagged and parsed weather data in modular units”, classified at least in class 707 subclass 100.

**As to the relation between Group I vs. Groups II (a) , II (b) , III(a), III(b):  
Group I is a combination and Groups II (a) and (b) , III(a), III(b) are  
subcombinations thereof.**

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).

In the instant case, the combination as claimed (Group I) involves “delivering weather information by a first entity at a first Internet site in partner relationships with a plurality of other entities, comprising: delivering “information including the weather information” (which is interpreted as delivery of weather information and other content) according to partnership rules.

**As to Group I and Group II a) ( Claims 1-10, 11-15, 38-43):**

In the instant case, the inventions of Group I as claimed does not require the particulars of the subcombination, Group II as claimed because delivering other content over the network based on local weather conditions, and based on a geographic location associated with the consumer’s device, are the particulars of the subcombination, Group II, which is not required in the invention of Group I for its patentability.

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Further the subcombination, Group II, has separate utility by itself such as determining delivery of data based on a geographic location associated with the consumer's device, which is not claimed in Group I.

**As to Groups I and Group II b) (Claims 44-47) :**

In the instant case, the inventions of Group I as claimed does not require the particulars of the subcombination IV as claimed because issuing commands (interpreted at least as other type of content) to consumer devices are the particulars of the subcombination which is not required in the invention of Group I for patentability.

Further, the Group IV subcombination features, such as cited above, have separate utility by themselves or in other combinations because all these features are extra features that are not required in the claims of Group I.

**As to Groups I and III a) (Claims 62-68):**

In the instant case, the inventions of Group I as claimed does not require the particulars of the subcombination III a) as claimed because customized delivery of weather information based on a user request and indicated preferences

are the particulars of the subcombination which is not required in the invention of Group I for patentability.

Further, the Group III a) subcombination features, such as cited above, have separate utility by themselves or in other combinations because all these features are extra features that are not required in the claims of Group I.

**As to Groups I and III b) (Claims 48-61) :**

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In the instant case, the inventions of Group I as claimed does not require the particulars of the subcombination III b) as claimed because

“parsing the weather data from the weather data feed and tagging the parsed weather data with a plurality of tags according to a set of defined parsing rules ; storing the tagged and parsed weather data in modular units”,

are the particulars of the subcombination which is not required in the invention of Group I for patentability.

Further, the Group III b) subcombination features, such as cited above, have separate utility by themselves or in other combinations because all these features are extra features that are not required in the claims of Group I.

**As to Group II (a) and (b) (Claims 1-10, 11-15, 38-43, 44-47) vs. Group III (a) and (b) (Claims 62-68, 48-61)**

Group II a) and b) : (Claims 1-10, 11-15, 38-43, 44-47) is drawn to delivering of other content over the network based on local weather conditions, classified in class 705, subclass 14 and class 340 subclass 3.1, as stated above.

Group III a) and b): Claims 62-68, 48-61 drawn to delivery of weather information over the network classified at least in class 705 subclass 27 or in class 707 subclass 100, as stated above.

Inventions II (a) and (b) and III (a) and (b) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions II (a) and (b) have separate utility from inventions III (a) and (b) such as Inventions II (a) and (b) are drawn to delivering of other content over the network based on local weather conditions while inventions

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III (a) to b) drawn to delivery of weather information over the network classified at least in class 705 subclass 27 or in class 707 subclass 100, as stated above. See MPEP § 806.05(d).

**As to Group II (a) vs. Group II (b)**

Group II a) (Claims 1-10, 11-15, 38-43) is drawn to delivering of other content over the network based on local weather conditions, classified in class 705, subclass 14.

Group II b) . Claims 44-47 is drawn to issuing commands to consumer devices, classified at least in class 340 subclass 3.1.

Group II b) is subcombination to the combination Group II a).

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).

In the instant case, the combination as claimed (Group II a) involves delivering of **other content** over the network based on local weather conditions and does not require the particulars of the subcombination, Group III b) as claimed because issuing commands to consumer devices are the particulars of the subcombination, Group II b) , which is not required in the invention of Group II a) for its patentability.

Further the subcombination, Group II b) , has separate utility by itself such as issuing commands to consumer devices which is not claimed in Group II a) .

**As to Group III a) vs. Group III b):**



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**Group III a). Claims 62-68** drawn to customized delivery of weather information based on a user request and indicated preferences classified at least in class 705 subclass 27.

**Group III b). Claims 48-61** drawn to delivering weather information ...comprising:...parsing the weather data from the weather data feed and tagging the parsed weather data with a plurality of tags according to a set of defined parsing rules ; storing the tagged and parsed weather data in modular units”, classified at least in class 707 subclass 100.

~~κH~~ Group ~~III~~(b) is a subcombination to the Group III (a) combination

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).

In the instant case, the combination as claimed (Group III a) ) involves customized delivery of weather information based on a user request and indicated preferences. In the instant case, the inventions of Group III a) as claimed does not require the particulars of the subcombination, Group III b) as claimed because parsing/tagging the weather data with a plurality of tags according parsing rules and storing them in modular units are the particulars of the subcombination, Group III b) , which is not required in the invention of Group III a) for its patentability.

Further the subcombination, Group III b) , has separate utility by itself such as parsing/tagging the weather data with a plurality of tags according parsing rules and storing them in modular units which is not claimed in Group III a) .

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6. Because these inventions are distinct for the reasons given above and the search required for each Group, as listed above is not required for each other Group as listed above, restriction for examination purposes as indicated is proper.

### Conclusion

7. Prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

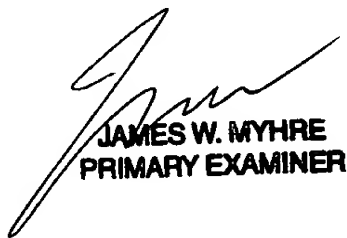
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 703-305-0571. The Examiner works a part-time schedule and can best be reached on Tuesday-Wednesday 9:00-6:00. The examiner can also be reached at the e-mail address: [khanh.le2@uspto.gov](mailto:khanh.le2@uspto.gov). ( However, Applicants are cautioned that confidentiality of email communications cannot be assured.)

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

November 23, 2003

KHL



JAMES W. MYHRE  
PRIMARY EXAMINER